

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**FILED**

**JAN 24 2018**

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS  
EAST ST LOUIS OFFICE

REGINALD YOUNG,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 17-cv-00946-JPG-RJD

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PLAINTIFF'S RESPONSE TO THE UNITED STATES MOTION  
TO DISMISS AND OR MOTION FOR SUMMARY JUDGMENT

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COMES NOW Reginald Young the Plaintiff, pro se and respectfully files this Reply to the United States Motion to Dismiss to Plaintiff's Federal Tort Claim Act pursuant to 28 U.S.C. Sections 1346(B)(1), 28 U.S.C.S. 2680 (A). The Plaintiff stands firmly on all points raised in his initial Federal Tort Claim. This Reply will address only the points raised in the United States answer/response that requires a reply.

THE PLAINTIFF STATES AS FOLLOWS:

Contrary to the United States Motion to Dismiss based on Plaintiff's alleged failure to comply with 735 ILCS - 5/2-622(a) requirements, the Plaintiff states that he has complied, and thus, the United States motion to dismiss should be "denied".

On October 26, 2017 this Honorable Court after preliminary review of the Plaintiff's Complaint pursuant to 28 U.S.C. Section 1915(a), the Court determined that Count 1, against the United States survives screening clearly based upon the content's of the complaint filed by the Plaintiff. The Court also "granted" and additional 90 days to file written report(s) after receiving medical records requested from the respondent who has not complied within 60 days of receiving such request.

The Plaintiff finally received the additional medical reports from Centralla Vision Center on December 22, 2017, and also from the Swansea Vision Center on January 3, 2018. Furthermore the record is clear that the Plaintiff is under the "custodial care" of the Federal Bureau of Prison and contained in the Plaintiff's initial filing provided medical records indicating that Dr. Douglas Kruse, MD/CD was the acting physician of record with the BOP at FCI Greenville, and Dr. Alan Montgomery was the visiting O.D. for FCI Greenville. It should be duly noted that Dr. F. Ahmed, MD/CD is the current acting physician at FCI Greenville.

### **Analysis**

Under Illinois law, when a plaintiff is seeking damages for injuries "by reason of medical, hospital, or other healing art malpractice" the plaintiff's attorney must file an affidavit attesting that the attorney "has consulted and reviewed the facts of the case with a health care professional" who "has determined in a written report . . . that there is a reasonable and meritorious cause for the filing of such action . . . ." 735 ILCS 5/2-622(a). The attorney must attach the health care professional's report to the affidavit. *Id.* Illinois courts liberally construe section 2-622(a) reports in favor of plaintiffs. See *Mueller v. N. Suburban Clinic, Ltd.*, 299 Ill. App. 3d 568, 701 N.E.2d 246, 250, 233 Ill. Dec. 603 (Ill. App. Ct. 1998).

The Plaintiff states to avoid Dismissal for Failure to Comply with Section 2-622(a)(1) which is designed to reduce the number of frivolous medical malpractice lawsuits at an early stage before litigation expenses mount. This Court in its decision on October 26, 2017 determined this fact. See, SULLIVAN -v- EDWARDS HOSP., 209 N.E. 2d. 645, 282 ILL Dec 348 (2004).

The report/complaint "establishes" only that the Plaintiff has meritorious claim and therefore the Plaintiff has supplied a short and brief outline regarding the reasonable grounds for pursuing this action. The medical reports and affidavit's the Plaintiff has submitted are liberally contrived in favor of the Plaintiff. See, CUTLER -v- NORTHWEST SUBURBAN COMMUNITY HOSPITAL, INC. 405 ILL App. 3d. 1052, 1064, 939, N.E. 2d. 1032, 345 ILL Dec 852 (2010) and SHERROD -v- LINGLE, 223 F. 3d. 605, 613-14 (7th. Cir. 2000). Thus, the Plaintiff states he has complied as required pursuant 2-622(a)(1) and when "liberally contrived" is sufficient.

The Plaintiff turns to BURNS -v- WILLIAMSON, No. 11-3020, 2012 U.S. Dist. Lexis 97415 2012 WL 2872475 (C.D. ILL July 12, 2012) as persuasive authority, that his attached reports does satisfy Section 2-622(a)'s report requirement. In BURNS, the Plaintiff brought claims against an ambulance service provider. The Plaintiff's report did not specifically address the ambulance service provider's direct negligence. Id. The Court, however, found that the report was " sufficient " to support Plaintiff's liability claims. Id. Specifically, the Court concluded the report was sufficient because the Plaintiff had " minimally complied " with Section 2-622(A), 2012 U.S. Dist Lexis 97415 (WL.-C, 6), see also, ALTHOFF -v- BRANNON 2015 U.S. Dist. Lexis 11925 (7th. Cir. 2015) and STEINBERG -v- DUNSETH 276 ILL App. 3d. 1038, 1049, 658, N.E. 2d., 1239, 213 ILL Dec 2018 (1995).

As explained in STEINBERG, 276 ILL App. 3d, @ 1049, the Section 2-622 report is a " ticket " which the Plaintiff must possess in order to file his complaint. The Plaintiff uses the same explanation and attest's there is ample documentation contained in the Plaintiff's Complaint/report for a reasonable and meritorious claim against the United States. There has at least been " minimal compliance with Section 2-622, which would satisfy Section 2-622 to support his claim against the United States.

In ALTHOFF -v- BRANNON, 2015 U.S. Dist Lexis 11925 (7th Cir. 2015) the Court addressed BURNS, in which the Court concluded the report was sufficient because the Plaintiff had minimally complied with Section 2-622(a), 2012 U.S. Dist lexis 97415 (WL. @ \*6). The Plaintiff in his initial fling detailed and provided medical encounters with FCI Health Services. The Plaintiff also provided some information from the Vision Centers from Centralla and Swansea. To further support his claim the Plaintiff requested medical reports " directly " from both of the above mentioned Vision centers which he " recently " received. (See, Exhibit's and Affidavit's enclosed) Furthermore the Plaintiff received reports from Dr. Maher, M.D. and Dr. Brine, M.D. clearly showing that the Plaintiff was diagnosed in 2008, and that the Plaintiff needed O.D. and O.S. surgery.

OBJECTIONS TO DECLARATION OF JEFFERY NOTT

The Plaintiff objects and asserts that the United States provided a declaration from Jeffery Nott, Medical Records Administration Specialist, FCI Greenville, which is " clearly " " outside " the scope of this cause of action.

CONCLUSION

The record is clear in 2008 the Plaintiff was diagnosed with " severe " cataracts in both eye's (O.D. & O.S. ) the Plaintiff had corrective surgery on his O.D. in 2009. As of this date the Plaintiff's vision O.S. has drastically diminished to the point that any spectacles could not improve his vision, basically blind in one eye. The Plaintiff claims he " did not leave his Civil Rights for proper health care " outside the gates" of FCI Greenville.

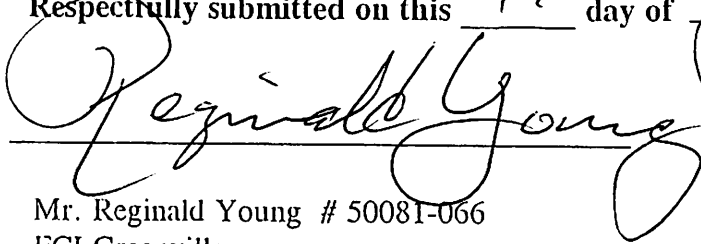
If any members of this Court or members of the United States were faced with the same situation as the Plaintiff, would they allow themselves's to wait over " NINE " years to have that corrective surgery, and if this case goes to trial would the jury ? The Plaintiff think's NOT !

Additionally this Court has discretion to allow the Plaintiff an opportunity to Amend his Complaint to Comply with Section 2-622, although the Plaintiff feels that he has satisfied Section 2-622 to proceed with this action. The Plaintiff respectfully urges this Honorable Court to " deny " the United States Motion to Dismiss and or Motion for Summary Judgment.

Respectfully submitted on this

19<sup>th</sup> day of

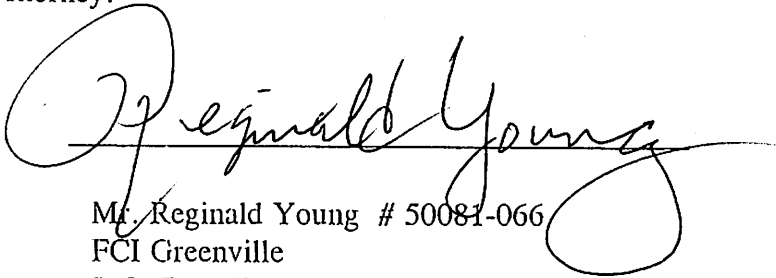
January, 2018



Mr. Reginald Young # 50081-066  
FCI Greenville  
P.O. Box 5000  
Greenville, IL 62246  
**PRO SE REPRESENTATION**

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this foregoing instrument has been mailed First Class, prepaid postage on this 19<sup>th</sup> day of January, 2018, to the parties listed in this document, and noted below by hand delivering a copy of the same to prison officials as FCI Greenville mailroom for mailing through the internal Legal Mail System. This instrument has been mailed to the United States District Court and the United States Attorney.

A handwritten signature in black ink, reading "Reginald Young". The signature is written in a cursive style with a large, looping initial "R".

Mr. Reginald Young # 50081-066  
FCI Greenville  
P.O. Box 5000  
Greenville, IL 62246  
**PRO SE REPRESENTATION**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

REGINALD YOUNG,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

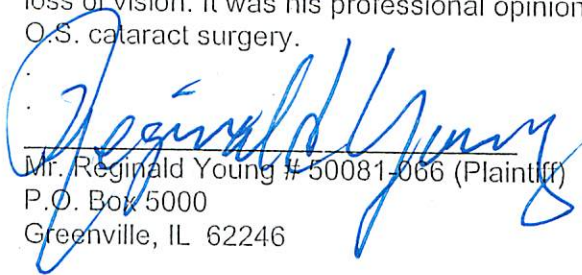
Case No. 17-cv-00946-JPG-RJD

AFFIDAVIT OF REGINALD YOUNG,

January 11, 2018

I Reginald Young, the Plaintiff states as follows:

On or about April 4, 2011 I met with Dr. Jeffery Maher, M.D. (Centralia-Vision Center) regarding my vision concern's. During the content of this meeting, Dr. Maher discussed and diagnosed my progressive loss of vision. It was his professional opinion and diagnoses that he recommended and was needed O.S. cataract surgery.

  
Mr. Reginald Young # 50081-066 (Plaintiff)  
P.O. Box 5000  
Greenville, IL 62246

SWORN AND SUBSCRIBED to before me the undersigned, a person known to REGINALD YOUNG # 50081-066, who swears and declares under penalty of perjury pursuant to 28 U.S.C. Section 1746 that he has read the above document and that the facts stated therein are true and correct.

On this 17 day of January, 2018

\_\_\_\_\_  
Notary

NAME KBJ TITLE Case Manager  
AUTHORIZED BY ACT OF JULY 7, 1955,  
AS AMENDED, TO ADMINISTER OATHS  
(18 USC 4004) 1-17-18



Vis shared record /r verbal: Dr. Greenwell PA.C requests ad  
or an opinion on signs/symptoms exam with suspected DX of Cat w/ali

CHIEF COMPLAINT It needs to have eval as cat sp  
Pl. Mrs O 8/15 just used for reading  
IPL LOCATION ☐ OD ☒ OS ☐ OU Other for reading  
QUALITY VA Close as to see anything  
SEVERITY least ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 > mo.  
DURATION hours days weeks months year

CONTEXT Of floaters  
MODIFYING FACTORS Of floaters  
ASSOCIATED SIGNS & SYMPTOMS Of floaters

CHRONIC / INACTIVE CONDITIONS Chronic / Inactive  
Checks 15/9/2/10/15/20/25/30/35/40/45/50/55/60/65/70/75/80/85/90/95/100  
ROS/PSII as recorded on 4-29 reviewed and updated as noted  
Scribed by GB Performed by MD

ALLERGIES:  
THIS VISIT: 04/04/2011 2:00 pm  
PCP:  
LOCATION: CENTRALIA  
new Rx for OS ad

**W** OD 010/10/10 for reading only  
OS 35/20-20/20 x 8/7  
Add +2.50  
**R** OD -02.5 -12.5 x 16/9 20/25 +2  
OS -07.5 -12.5 x 17/2 20/25  
Add 1.50

Neurologic/Psychiatric  
☐ Oriented to time, place person  
☐ Mood and affect appropriate  
Dilation Time  
☒ Mydrinyl 1%  
☒ Neo 2.5%  
☒ Cyclogyl 1%  
☒ Paremide  
glove  
20/40005  
Ta 13/12

Refraction WNL  
EXAMINATION PERFORMED ABN  
OD OS  
☒ Gross Visual Field testing by confrontation  
☒ Test Ocular Motility including primary gaze alignment  
☒ Examination of Ocular Adnexa including lids (e.g. ptosis or lagophthalmos), lacrimal glands, lacrimal drainage, orbits and preauricular nodes  
☒ Examination of Pupils, 2-2 OPA/OS  
☒ Iridex including shape, direct and consensual reaction (afferent pupil), size, e.g. anisocoria and morphology  
☒ Inspection of lids and palpebral Conjunctiva  
☒ Slit lamp examination of Corneas, including endothelium, stroma, endothelium and tear film  
☒ Slit lamp examination of Anterior Chambers, including depth, cells and flare  
☒ Slit lamp examination of Lenses including clarity, anterior and posterior capsule, cortex and nucleus  
☒ Ophthalmic examination through Dilated Pupils (unless contraindicated) of Optic Discs, including size, C/D ratio, appearance (e.g. atrophy cupping, tumor elevation) and nerve fiber layer  
☒ Posterior segments including Retina and Vessels (e.g. exudates and hemorrhages)

Glaucoma PT starting pressures  
15% reduction PQRI 3284J  
No 15% reduction PQRI 3285F  
plan of care in place PQRI 0517F  
NA newly diagnosed or no glom

MEDICATIONS  
Metformin  
Aspirin  
OCULAR SURGICAL HX  
JM  
OCULAR MEDICATIONS

PRESSION: 1 NS/PC cat. OS - few ret. lines OD  
2 Tol OD - stable 3 NIDDM - with ADR  
1 R/B/A of CE - wants to proceed  
2 sched Tol OS - Biometry

REC  
12-22-2017

THE SURGERY CENTER of CENTRALIA



A Community Care Partner

1045 Martin Luther King Dr.  
Centralia, Illinois 62801

ST LOUIS

MO 630

20 DEC '17

AM 10:1

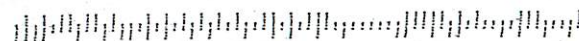


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Reginald Young  
P.O. Box 5000  
Greenville, IL  
62246

62246-500000





IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

REGINALD YOUNG,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

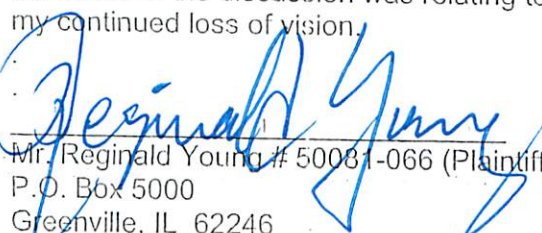
Case No. 17-cv-00946-JPG-RJD

AFFIDAVIT OF REGINALD YOUNG,

January 11, 2018

I Reginald Young, the Plaintiff states as follows:

On or about July 19, 2011 I met with Dr. Jeffery Maher, M.D. (Swansea-Vision Center) regarding my vision concern's. During the content of this meeting, Dr. Maher discussed and diagnosed my progressive loss of vision. It should be noted that in April I also met with Dr. Maher and It was his professional opinion and diagnoses that he recommended and was needed O.S. cataract surgery. During the July 19th, consultation the discussion was relating to the same " Chief Complaint " of past evaluations concerning my continued loss of vision.

  
Mr. Reginald Young # 50081-066 (Plaintiff)  
P.O. Box 5000  
Greenville, IL 62246

SWORN AND SUBSCRIBED to before me the undersigned, a person known to REGINALD YOUNG # 50081-066, who swears and declares under penalty of perjury pursuant to 28 U.S.C. Section 1746 that he has read the above document and that the facts stated therein are true and correct.

On this 17 day of January, 2018

\_\_\_\_\_  
Notary

NAME KBP TITLE Case Manager  
AUTHORIZED BY ACT OF JULY 7, 1955,  
AS AMENDED, TO ADMINISTER OATHS  
(18 USC 4004) 1-17-18

PAGE: 1  
NAME: **Reginald Young**  
ADDRESS: FCI Greenville PO Box 4000  
Greenville, IL 62246  
PHONE: (618) 664-6289,  
WORK:  
DOB: 05/07/1960 (51)

ident ID # / ACCT # 108454 / 108454  
ALLERGIES:  
THIS VISIT: 07/19/2011 1:15 pm  
PCP:  
LOCATION: SWANSEA

EXAM  
W OD  
OS  
Add  
Wearing  
OD -025 sph  
OS -1.25 +0.50 X 155  
R Add

Refraction  
WNL  
OD OS  
Gross Visual Field testing by confrontation  
Test Ocular Motility including primary gaze alignment  
Examination of Ocular Adnexa including lids (e.g. ptosis or lagophthalmos), lacrimal glands, lacrimal drainage, orbits and preauricular nodes  
Examination of Pupils, 3/3 RAPD  
Iris including shape, direct and consensual reaction (afferent pupil), size, e.g. anisocoria, and morphology  
Inspection of bulbar and palpebral Conjunctiva  
Slit lamp examination of Corneas, including epithelium, stroma, endothelium and tear film  
Slit lamp examination of Anterior Chambers, including depth, cells and flare  
Slit lamp examination of Lenses including clarity, anterior and posterior capsule, cortex and nucleus.  
Ophthalmic examination through Dilated Pupils (unless contraindicated) of: Optic Discs including size, C/D ratio, appearance (e.g. atrophy cupping, tumor elevation) and nerve fiber layer.  
Posterior segments including Retina and Vessels (e.g. exudates and hemorrhages).

IMPRESSION:

① NS (PSC) cat. OS - vis 5/5.  
② JOL OD - stable ③ NIDDM

PLAN ① reviewed R/R/A of CE - want to proceed  
② sched JOL OS. Biomech

Dictate E-Prescribe (G8443) No Prescription (G8445) Manual Prescribe (G8446) Maher MD, Jeffrey M.  
ext Visit: HVF OCT GDX Today: PACH Date of Biometry done

or an opinion on signs/symptoms from am with suspected DX of

CHIEF COMPLAINT Nure for Cataract OS

HPI: LOCATION ☐ OD ☒ OS ☐ OU Other

QUALITY Va blurred OS. OD fine.

SEVERITY least ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☒ 9 ☐ 10 > most

DURATION hours days weeks months years

CONTEXT Constant

MODIFYING FACTORS Flashes

ASSOCIATED SIGNS & SYMPTOMS floaters (old)

CHRONIC / INACTIVE CONDITIONS JOL OD, Cat OS

Indicate: 1 Improving, 2 Stable, 3 Worsening

ROS/PFSH as recorded on 4-11 reviewed and updated as noted  
Scribed by CW, COA Performed by MD

Neurologic/Psychiatric  
☒ Oriented to time, place person  
☒ Mood and affect appropriate

Dilation Time  
☒ Mydriacyl 1%  
☒ Neo 2.5%  
☒ Cyclogyl 1% Pm.  
☐ Paremlyd  
Bat  
20/100 (OS) Ta 13/14 Cu

Glaucoma PT starting pressures  
15% reduction PQRI 3284F  
No 15% reduction PQRI 3285F  
plan of care in place PQRI 0517F  
NA newly diagnosed or no glcma

MEDICATIONS

OCULAR SURGICAL HX  
JOL OD 5/09

OCULAR MEDICATIONS

ILLINOIS EYE SURGEONS  
3990 NORTH ILLINOIS ST.  
BELLEVILLE, IL 62226

Rec'd  
on 1-3-2018

2B FCI Greenville  
P.O. Box 5000  
Reginald Young #5008/-066  
Greenville, IL 62246





IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

REGINALD YOUNG,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

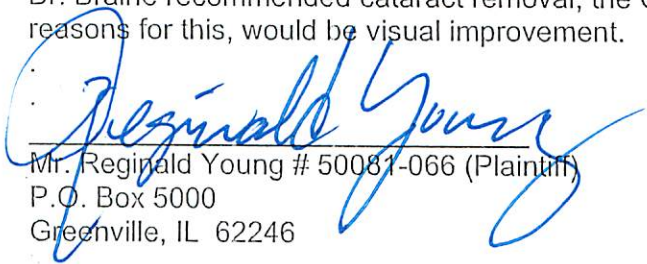
Case No. 17-cv-00946-JPG-RJD

AFFIDAVIT OF REGINALD YOUNG,

January 11, 2018

I Reginald Young, the Plaintiff states as follows:

On or about October 27, 2008 I met with Dr. Bart J. Brine, M.D. of the Diseases and Surgery of the Eye Ophthalmology regarding my vision concern's. During the content of this meeting, Dr. Brine discussed and diagnosed my progressive loss of vision. It was his professional opinion and diagnoses that he was unable to improve my vision with spectacles. Furthermore, his diagnoses and impression, Dr. Braine recommended cataract removal, the OD followed shortly the O.S. And followed up his reasons for this, would be visual improvement.

  
Mr. Reginald Young # 50081-066 (Plaintiff)  
P.O. Box 5000  
Greenville, IL 62246

SWORN AND SUBSCRIBED to before me the undersigned, a person known to REGINALD YOUNG # 50081-066, who swears and declares under penalty of perjury pursuant to 28 U.S.C. Section 1746 that he has read the above document and that the facts stated therein are true and correct.

On this 17 day of January, 2018

\_\_\_\_\_  
Notary

NAME KPZ TITLE Case Manager  
AUTHORIZED BY ACT OF JULY 7, 1955,  
AS AMENDED, TO ADMINISTER OATHS  
(18 USC 4004) 1-17-18

ANDREW C. PEDERZOLLI, M.D.  
BART J. BRINE, M.D.  
DISEASES AND SURGERY OF THE EYE  
OPHTHALMOLOGY  
1059 EAST STATE STREET  
SALEM, OHIO 44460  
(330) 332-9991

November 3, 2008

Clinical Director  
FCI Elkton  
Lisbon, OH 44432

Re: Reginald Young

#50081 - 066

Dear Doctor,

I had the pleasure of examining Reginald Young on October 27, 2008. As you may recall, Mr. Young is a 48 year old black male who has been complaining about progressive loss of vision, the OD more so than the OS, over the past couple of years. His past medical history includes diabetes mellitus.

Acuity is 20/80 OD and 20/60 OS without correction. I am unable to improve his vision with spectacles. Slit lamp exam is quiet with acquired racial melanosis. There is no rubeosis. He does have significant posterior subcapsular cataracts in OU.

Dilated exam is extremely poor secondary to the opacity. However, everything looks to be flat.

My impression is visually significant cataract OU, for which I do recommend cataract removal, the OD followed shortly by the OS. The reasons for this, of course, would be visual improvement and to allow us to better diagnose and treat any diabetic retinopathy.

I hope you find this information useful.

Sincerely,



Bart J. Brine, M.D.  
BJB/lsm

RM Lepore MD  
RM LEPIANE  
11/7/08



Federal Correctional Institution Greenville  
Reginald Young # 50081-066  
P.O. Box 5000  
Greenville, IL 62246

MAIL CLEARED  
US MARSHALS



United States  
District Court

P.O. Box 249

East St. Louis, Illinois

Legal Mail

62246



RECEIVED

JAN 24 2018

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS OFFICE